

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 807

Introduced by Senator Denham
(Coauthor: Senator Ashburn)

February 21, 2003

An act to amend Section ~~40709~~ 42310 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 807, as amended, Denham. ~~Air pollution: emission reduction credit banking~~ *quality: major source.*

Existing

(1) *Existing* law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources.

Existing law authorizes the board of every district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. *Existing* law exempts vehicles and certain types of equipment from those permit requirements, including equipment used in agricultural operations in the growing of crops or the raising of fowl or animals. *Existing* law authorizes districts located in certain areas of the state to require permits for orchard and citrus grove heaters, but prohibits the denial of a permit if those heaters produce unconsumed solid carbonaceous matter at a rate of one gram per minute or less.

This bill would revise the exemption for any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals to include equipment used in agricultural operations, except equipment used at an agricultural operation that is a major source, as

defined and utilized in the federal Clean Air Act. To the extent that the bill would increase the number of permits that a district board, electing to establish a permit system prior to January 1, 2004, would be required to issue, the bill would impose a state-mandated local program.

(2) Under existing law, any person who violates a rule, regulation, permit, or order of a district is guilty of a misdemeanor.

Because this bill would increase the number of people who are subject to that sanction, it would expand the scope of a crime, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above. ~~and, subject to the powers and duties of the State Air Resources Board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction. Existing law requires the board of every district to establish by regulation a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants be banked prior to use to offset future increases in emissions.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 40709 of the Health and Safety Code is~~
- 2 ~~SECTION 1. Section 42310 of the Health and Safety Code is~~
- 3 ~~amended to read:~~

42310. A permit shall not be required for *any of the following*:

(a) Any vehicle.

(b) Any structure designed for and used exclusively as a dwelling for not more than four families.

(c) An incinerator used exclusively in connection with ~~such~~ a structure *described in subdivision (b)*.

(d) Barbecue equipment ~~which~~ *that* is not used for commercial purposes.

(e) Any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals, except ~~that the district board of any district which is, in whole or in part, south of the Sixth Standard Parallel South, Mount Diablo Base and Meridian, may require permits for the operation of orchard and citrus grove heaters. In no event shall a permit be denied an operator of such heaters if the heaters produce unconsumed solid carbonaceous matter at the rate of one gram per minute or less equipment at a major source. For the purposes of this subdivision, "major source" has the same meaning as in Section 7661 of Title 42 of the United States Code, and includes any source that meets the definition of "major source" as defined in Section 7412 of Title 42 of the United States Code, "major stationary source" as defined in Section 7602 of Title 42 of the United States Code, or as utilized in Part D (commencing with Section 7501) of subchapter 1 of Chapter 85 of Title 42 of the United States Code.~~

(f) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

As used in this section, maintenance does not include operation.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code. If the statewide cost of the
3 claim for reimbursement does not exceed one million dollars
4 (\$1,000,000), reimbursement shall be made from the State
5 Mandates Claims Fund.

6 amended to read:

7 ~~40709. (a) Every district board shall establish by regulation~~
8 ~~a system by which all reductions in the emission of air~~
9 ~~contaminants that are to be used to offset certain future increases~~
10 ~~in the emission of air contaminants shall be banked prior to use to~~
11 ~~offset future increases in emissions. The system shall provide that~~
12 ~~only those reductions in the emission of air contaminants that are~~
13 ~~not otherwise required by any federal, state, or district law, rule,~~
14 ~~order, permit, or regulation shall be registered, certified, or~~
15 ~~otherwise approved by the district air pollution control officer~~
16 ~~before they may be banked and used to offset future increases in~~
17 ~~the emission of air contaminants. The system shall be subject to~~
18 ~~disapproval by the state board pursuant to Chapter 1 (commencing~~
19 ~~with Section 41500) of Part 4 within 60 days after adoption by the~~
20 ~~district.~~

21 ~~(b) The system is not intended to recognize any preexisting~~
22 ~~right to emit air contaminants, but to provide a mechanism for~~
23 ~~districts to recognize the existence of reductions of air~~
24 ~~contaminants that can be used as offsets, and to provide greater~~
25 ~~certainty that the offsets shall be available for emitting industries.~~

26 ~~(c) Notwithstanding subdivision (a), emissions reductions~~
27 ~~proposed to offset simultaneous emissions increases within the~~
28 ~~same stationary source need not be banked prior to use as offsets,~~
29 ~~if those reductions satisfy all criteria established by regulation~~
30 ~~pursuant to subdivision (a).~~

31 ~~(d) This section does not apply to any district that is not~~
32 ~~required to prepare and submit a plan for attainment of state~~
33 ~~ambient air quality standards pursuant to Section 40911 if both of~~
34 ~~the following criteria apply to the district:~~

35 ~~(1) The district is not in a federal nonattainment area for any~~
36 ~~national ambient air quality standard unless the sole reason for the~~
37 ~~nonattainment is due to air pollutant transport.~~

1 ~~(2) An owner or operator of a source or proposed source has not~~
2 ~~petitioned the district to establish a banking system.~~

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